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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,612	09/08/2000	Lester D. Nelson	FXPL-01027US0 MCF/KJD	3385
23910	7590	09/07/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			BARNIE, REXFORD N	
		ART UNIT	PAPER NUMBER	
		2643	17	
DATE MAILED: 09/07/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/658,612	NELSON ET AL.
	<b>Examiner</b> REXFORD N BARNIE	<b>Art Unit</b> 2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 June 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-14 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*R Barnie*  
REXFORD BARNIE  
PRIMARY EXAMINER

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 3, 5, 6-11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zahavi et al. (US Pat 6,577,859, cited by applicant) in view of Cannon et al. (US Pat# 6,393,272).

Regarding claims 1 and 7, Zahavi teaches a telephone system wherein a mechanical device can be activated, storing conversation element representing an audible utterance and generating an audible utterance in response to a user interaction with the mechanical devices in (see col. 5, col. 2 lines 45-67, fig. 2) but fails to teach in detail internal components of a telephone. Cannon et al. teaches a telephone answer

and hold feature which can output an outgoing message to a calling party in response to activation of a mechanical device comprising of a mechanical device (button or key), controller and a memory in (see fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Cannon into that of Zahavi thus making it possible to output desired messages to a calling party to inform them of a communication status/one's status or what a called party intends to do during a communication.

Regarding claim 2, The combination teaches a function key or button.

Regarding claims 3, 5 and 6, The examiner takes official notice that it's well known to have a headset with a mobile phone and a telephone would inherently have a speaker too.

Regarding claims 8-9, The combination teaches that there could be functional key to activate a farewell message such as goodbye or a user should speak even though one cannot by activating a function key in (see cols. 5-6 of Zahavi).

Regarding claim 11, The combination teaches call back rescheduling in (see col. 6 lines 11-19 of Zahavi).

Regarding claim 13, Zahavi teaches a telephone system wherein a mechanical device can be activated, storing conversation element representing an audible utterance and generating an audible utterance in response to a user interaction with the mechanical devices in (see col. 5, col. 2 lines 45-67, fig. 2). Zahavi teaches eliciting a verbal response in the form of YES, NO, Maybe and so forth but fails to teach in detail

internal components of a telephone. Cannon et al. teaches a telephone answer and hold feature which can output an outgoing message to a calling party in response to activation of a mechanical device comprising of a mechanical device (button or key), controller and a memory in (see fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Cannon into that of Zahavi thus making it possible to output desired messages to a calling party to inform them of a communication status/one's status or what a called party intends to do during a communication.

Regarding claims 10 and 14, The combination teaches inquiries and answer as part of an interaction between two parties.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zahavi et al. (US Pat 6,577,859) in view of Cannon et al. (US Pat# 6,393,272) and further in view of Levy et al. (US Pat# 4,577,067) or Saito (US Pat# 6,526,263).

Regarding claim 4, The combination fails to teach coupling a processor to an impedance matching circuit as taught by Saito who teaches a radio telephone with an impedance matching circuit in conjunction with a control circuit (see figs.).

Levy teaches a telephone circuit with an impedance matching means in (see col. 5 lines 28-32).

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to incorporate the teaching of either secondary reference into

that of the combination thus making it possible to reduce noise, enhance sound intelligibility and to reduce transmission loss.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zahavi et al. (US Pat 6,577,859) in view of Cannon et al. (US Pat# 6,393,272) and further in view of Bremer (US Pat# 6,018,671)

Regarding claim 12, The combination fails to teach a touch-tone screen even though; Zahavi teaches being able to display text on screen. Bremer teaches a telephone system wherein input means could comprise of a touch tone screen, function keys and so forth as means of activating an outgoing message to be relayed to a remote party in (see col. 2 lines 15-23, col. 1 lines 60-67, cols. 3-4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bremer into that of the combination thus making it possible to visually activate exactly an outgoing message one intends to relay to a remote party.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER  
REXFORD BARNIE  
08/27/04

  
REXFORD BARNIE  
PRIMARY EXAMINER